

**ASSEMBLY BILL**

**No. 1543**

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**Introduced by Assembly Member Alejo**

January 25, 2012

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An act to amend Sections 4300, 4301, 4303, 4304, and 4305 of, and to repeal Sections 4302, 4302.5, 4302.6, and 4303.5 of, the Government Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1543, as introduced, Alejo. Public contracts: Buy American.

The California Buy American Act requires that a governing body of any political subdivision, municipal corporation, or district, and any public officer or person charged with the letting of contracts for the construction, alteration, or repair of public works or for purchasing materials for public use to only let those contracts to a person who agrees to use or supply materials produced or manufactured in the United States, as prescribed. Existing law does not apply this requirement to specified medical and scientific equipment and instruments, sewing machines, printing presses, or office machines or supplies, as specified.

This bill would, on and after January 1, 2014, also apply a similar requirement to public contracts let for the purchase or lease of any manufactured tangible personal property or for any materials or structural components to be incorporated into real property, and would provide for specified exceptions, as provided. This bill would repeal those provisions that prohibit the application of the existing United States-made preference to specified medical and scientific equipment and instruments, sewing machines, printing presses, or office machines or supplies. By imposing new duties upon local governments with

respect to public contracts, this bill would impose a state-mandated local program. This bill would also make related changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This measure shall be known as the Bring  
2 Manufacturing Jobs Back to California Act.

3 SEC. 2. The Legislature hereby finds and declares the  
4 following:

5 (a) In the years 2001 to 2011, inclusive, California lost 612,000  
6 manufacturing jobs, equal to over 32 percent of our state's  
7 industrial base.

8 (b) The outsourcing of jobs, particularly for manufacturing  
9 products that once had the "Made in America" label, contributes  
10 to these losses.

11 (c) The most recent example of how this outsourcing hurts  
12 Californians is the new \$6.3 billion San Francisco-Oakland Bay  
13 Bridge East Span, which is being built in China by workers  
14 reportedly being paid \$12 per day. The work on this one project  
15 alone reportedly represents over 3 million hours of high-wage  
16 manufacturing jobs in California lost to non-Californians.

17 (d) The decline of our industrial base, and the loss of high-wage  
18 manufacturing jobs, has led to suffering for unemployed workers  
19 and frustration for consumers who cannot find high-quality "Made  
20 in America" products in stores.

21 (e) A key to reducing our state's double-digit unemployment  
22 rate is to bring back manufacturing jobs to California.

23 (f) For every manufacturing job created, an additional 2.5 jobs  
24 are created in the broader economy.

25 (g) The State of California, counties, cities, districts, and local  
26 government agencies should curtail spending billions of tax dollars

1 to purchase products for use by state and local government that  
2 are manufactured overseas.

3 (h) With the enactment of a 33-percent renewables portfolio  
4 standard for all California electric utilities by 2020, the  
5 development of clean and safe renewable energy sources will  
6 require extensive manufacturing of new solar, wind, geothermal  
7 equipment, and other materials and equipment to be used in the  
8 construction and operation of publicly owned renewable energy  
9 facilities.

10 SEC. 3. It is the purpose and intent of the Legislature to do the  
11 following:

12 (a) Bring manufacturing jobs back to California.

13 (b) Create a market for new manufacturing contracts based upon  
14 the unified purchasing power of the State of California and our  
15 state's counties, cities, districts, and local government agencies.

16 (c) Unleash the entrepreneurial skills of California manufacturers  
17 that have been forced to close their factories due to anticompetitive  
18 outsourcing policies that ignore the human and material costs of  
19 shipping manufacturing jobs overseas.

20 (d) Prevent the continuous outsourcing of California's industrial  
21 base.

22 (e) Leverage a newly created demand for manufactured products  
23 made in America to create real choices for California consumers  
24 who want to purchase products made in America.

25 (f) Ensure that the expansion of California's publicly owned  
26 renewable energy industry facilities creates "Made in America"  
27 manufacturing jobs.

28 SEC. 4. Section 4300 of the Government Code is amended to  
29 read:

30 4300. As used in this article:

31 (a) "United States" means the United States of America, and  
32 includes any Territory or insular possession of the United States.

33 (b) "Produced" includes mined and manufactured.

34 (c) "Materials" includes articles and supplies.

35 (d) *"Equipment" includes, but is not limited to, devices, tools,*  
36 *machines, and vehicles.*

37 SEC. 5. Section 4301 of the Government Code is amended to  
38 read:

39 4301. ~~This article does not apply to materials which are of a~~  
40 ~~class or kind which are not, or which are manufactured from~~

1 ~~materials which are not, produced in the United States, nor to~~  
2 ~~key-driven calculators manufactured in branch plants located~~  
3 ~~outside continental United States, but which plants are wholly~~  
4 ~~owned and operated by a corporation the majority of whose stock~~  
5 ~~is owned or controlled by an American manufacturer whose~~  
6 ~~principal manufacturing centers and home offices are located in~~  
7 ~~the United States. Notwithstanding any other law and except as~~  
8 ~~prohibited by federal law, on and after January 1, 2014, the~~  
9 ~~governing body of any state or local political subdivision,~~  
10 ~~municipal corporation, or district, or any state or local public~~  
11 ~~officer or person charged with the letting of contracts for the~~  
12 ~~purchase or lease of any manufactured tangible personal property~~  
13 ~~or for any materials or structural components to be incorporated~~  
14 ~~into real property, shall let those contracts only for manufactured~~  
15 ~~tangible personal property or for any materials or structural~~  
16 ~~components to be incorporated into real property that is~~  
17 ~~manufactured in the United States, substantially all from materials~~  
18 ~~produced in the United States. The only waivers, exceptions, or~~  
19 ~~exemptions to these requirements are:~~

20 (a) *For purchase or lease of spare parts for any existing*  
21 *equipment owned by or under lease to any state or local political*  
22 *subdivision, municipal corporation, or district on or before*  
23 *December 31, 2013.*

24 (b) *For purchase or lease of manufactured tangible personal*  
25 *property or for any materials or structural components to be*  
26 *incorporated into real property the age of which exceeds 60*  
27 *months.*

28 (c) *For purchase or lease of any books, newspapers, magazines,*  
29 *journals, or other media, not produced in the United States, for*  
30 *use by libraries, museums, research facilities, or government*  
31 *repositories.*

32 (d) *For purchase or lease of any artwork, or any historical,*  
33 *cultural, literary, or scientific artifacts intended for display or for*  
34 *research in libraries, museums, research facilities, or government*  
35 *repositories.*

36 (e) *For purchase or lease by any state or local political*  
37 *subdivision, municipal corporation, or district of specifically*  
38 *identified and particularly described manufactured tangible*  
39 *personal property or any materials or structural components to*  
40 *be incorporated into real property excepted by statutes that are*

1 *passed in each house of the Legislature by rollcall vote entered in*  
2 *the journal, a majority of the membership concurring, and signed*  
3 *by the Governor.*

4 (f) *For waivers, exceptions, or exemptions in response to an*  
5 *emergency or to protect public health or safety enacted in statutes*  
6 *approved by a simple majority vote of each house of the Legislature*  
7 *and signed by the Governor.*

8 (g) *Any waiver, exception, or exemption approved by statutes*  
9 *enacted shall be in effect for a period no longer than three years*  
10 *from the effective date of the statute.*

11 SEC. 6. Section 4302 of the Government Code is repealed.

12 ~~4302. This article does not apply to medical and surgical~~  
13 ~~instruments, scientific equipment, microscopes, lenses, or~~  
14 ~~instruments used for scientific or medical purposes, including~~  
15 ~~research.~~

16 SEC. 7. Section 4302.5 of the Government Code is repealed.

17 ~~4302.5. The provisions of this article do not apply to the~~  
18 ~~purchase of sewing machines, regardless of the place of their~~  
19 ~~manufacture or the source of the materials from which such~~  
20 ~~machines were manufactured.~~

21 SEC. 8. Section 4302.6 of the Government Code is repealed.

22 ~~4302.6. The provisions of this article do not apply to the~~  
23 ~~purchase of printing presses of rotary gripper system or single~~  
24 ~~revolution design, which are purchased exclusively for use in~~  
25 ~~schools and colleges for educational purposes; provided, however,~~  
26 ~~that if printing presses of rotary gripper system or single revolution~~  
27 ~~design are manufactured within the United States that only such~~  
28 ~~presses as are manufactured in the United States shall be purchased.~~

29 SEC. 9. Section 4303 of the Government Code is amended to  
30 read:

31 4303. The governing body of any *state or local* political  
32 subdivision, municipal corporation, or district, and any public  
33 officer or person charged with the letting of contracts for (1) the  
34 construction, alteration, or repair of public works or (2) for the  
35 purchasing of materials for public use, shall let such contracts only  
36 to persons who agree to use or supply only ~~such unmanufactured~~  
37 ~~materials as~~ *that* have been produced *or manufactured* in the United  
38 States, ~~and only such manufactured materials as have been~~  
39 ~~manufactured in the United States~~, substantially all from materials  
40 produced in the United States.

1 SEC. 10. Section 4303.5 of the Government Code is repealed.  
2 ~~4303.5. Any provision of this article to the contrary~~  
3 ~~notwithstanding, any such body or person may let a contract for~~  
4 ~~the purchase of office machines or supplies therefor without regard~~  
5 ~~to the place of their manufacture or the source of the materials~~  
6 ~~from which such machines or supplies are manufactured, except~~  
7 ~~that such contracts or purchases shall be subject to the provisions~~  
8 ~~of Section 4334.~~

9 SEC. 11. Section 4304 of the Government Code is amended  
10 to read:

11 4304. Every contract for the construction, alteration, or repair  
12 of public works or for the purchase of materials for public use shall  
13 contain a provision that only unmanufactured materials produced  
14 in the United States, and only manufactured materials manufactured  
15 in the United States, substantially all from materials produced in  
16 the United States shall be used in the performance of the contract.

17 Any person who fails to comply with such provision shall not  
18 be awarded any contract to which this article applies for a period  
19 of three years from the date of the violation.

20 SEC. 12. Section 4305 of the Government Code is amended  
21 to read:

22 4305. The name of the person failing to comply, together with  
23 a report of the facts constituting the violation, shall be posted by  
24 the governing board or person who let the contract in at least three  
25 public places in the county in which the contract was made.

26 SEC. 13. The provisions of this act are severable, if any  
27 provision of this act, or part thereof, is for any reason held to be  
28 invalid under state or federal law, the remaining provisions shall  
29 not be affected but shall remain in full force and effect.

30 SEC. 14. If the Commission on State Mandates determines  
31 that this act contains costs mandated by the state, reimbursement  
32 to local agencies and school districts for those costs shall be made  
33 pursuant to Part 7 (commencing with Section 17500) of Division  
34 4 of Title 2 of the Government Code.

35 SEC. 15. This act shall become effective January 1, 2014.